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CLERK

UNITED STATES DISTRICT COURT JGK 03/02/2018
EASTERN DISTRICT OF NEW YORK U.S. DISTRICT COURT

EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

-----X Docket#
UNITED STATES OF AMERICA, : 18-CR-00021-ADS-AYS
:
- versus - : U.S. Courthouse
: Central Islip, New York
DANIEL ARNOLD, :
Defendant : February 12, 2018
-----X

S E A L E D P R O C E E D I N G S
TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
BEFORE THE HONORABLE ANNE Y. SHIELDS
UNITED STATES MAGISTRATE JUDGE

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Proceedings

1 THE CLERK: Calling 18-cr-21, United States of
2 America v. Daniel Arnold.

3 Please state your appearances for the record.

4 MR. REITER: Good afternoon, your Honor.

5 Trial Attorney, Alister Reiter (ph.) for the
6 United States. With me is U.S. Postal Inspection Service
7 Agent, Christine Collin (ph.).

8 THE COURT: Good afternoon.

9 MR. LETO: Leonard Leto for Mr. Arnold.
10 Good afternoon.

11 MR. LETO: And good afternoon, your Honor.

12 Tracey Gaffey, Federal Defenders for Mr.
13 Arnold.

14 THE COURT: Good afternoon.

15 All right. We're here today for a proceeding
16 pursuant to Rule 7(b) of the Federal Rules of Criminal
17 Procedure. First I want to make sure that Mr. Arnold
18 understands, Judge Spatt is the district judge in this
19 case. He is the judge that will ultimately be handling
20 and sentencing you in this matter. You understand he's
21 referred this matter to me here this afternoon and at the
22 end, I'll be making a recommendation to him as to whether
23 or not to accept what happened in the courtroom today.

24 Do you understand that?

25 THE DEFENDANT: Yes, I understand.

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1 THE COURT: Okay. All right. So you are going
2 to be waiving indictment and pleading guilty to Count 1
3 of an information that charges you with conspiracy to
4 commit mail fraud.

5 So the first thing I have here is a waiver of
6 indictment. I want to talk to you about that first, Mr.
7 Arnold. Okay?

8 THE DEFENDANT: Okay.

9 THE COURT: The first thing we're going to do
10 is swear you in. I'm going to ask my deputy -- just
11 stand up -- you just stand up, raise your right hand and
12 answer yes.

13 D A N I E L A R N O L D

14 called as a witness, having been first duly sworn,
15 was examined and testified as follows:

16 THE COURT: Okay. You can be seated. Now when
17 we speak, just make sure you speak into the mic, that the
18 green light is on, okay, because everything is recorded.
19 Okay?

20 All right. So first of all, can you state your
21 full name to me?

22 THE DEFENDANT: Daniel Arnold.

23 THE COURT: And have you had the opportunity to
24 discuss these proceedings here today with your lawyer?

25 THE DEFENDANT: Yes.

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1 THE COURT: And you understand what's going on?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. So first of all, as to the
4 waiver of indictment, I do have the form in front of me
5 here. I just want to explain to you on the record, your
6 right to be indicted, so I can be sure that you
7 understand what that means. All right?

8 So when the government prosecutes somebody for
9 an offense that is punishable by a term of imprisonment
10 that exceeds one year, they have to do so by indicting
11 the person. In fact, you have a constitutional right to
12 be charged by indictment of a grand jury. That means
13 unless you waive indictment, you cannot be charged with a
14 felony unless a grand jury finds there's probable cause
15 to believe that a crime was committed and you committed
16 it.

17 If you don't waive indictment, the government
18 has to present its case to a grand jury if it wants to
19 proceed. If that were to happen, the case would be
20 presented to a group of your fellow citizens who sit on
21 the grand jury to determine probable cause.

22 Upon that presentation, the grand jury may or
23 may not indict you. However, you can waive the right to
24 indictment and you can allow the government to proceed
25 against you by way of information and that's what we're

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1 doing here today.

2 If you waive indictment, which you have done,
3 the government is allowed to proceed against you by way
4 of information.

5 Do you understand what I have explained to you
6 about the grand jury process and having discussed that,
7 do you agree to waive indictment by the grand jury?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. So you've signed it. Your
10 lawyer has signed it and I will sign that as well, okay?
11 So that's taken care of. And I am going to recommend
12 that the district court accept that waiver.

13 Now we're proceeding to the guilty plea. I
14 want to remind you that you're already sworn in, all
15 right? All right.

16 Now before you came in today, you discussed the
17 guilty plea with your lawyer, right?

18 THE DEFENDANT: Yes.

19 THE COURT: And he provided you with a form and
20 you've gone over that form and you've filled out all of
21 the answers, right?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. So all we're going to
24 do is go through that form and I'm going to ask you the
25 same questions and ask you to respond the same way, okay?

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1 THE DEFENDANT: Okay.

2 THE COURT: So you understand that having been
3 sworn in and your answers to my questions are subject to
4 the penalty of perjury or of making a false statement if
5 answer untruthfully.

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. Again, state your full name.

10 THE DEFENDANT: Daniel Arnold.

11 THE COURT: And how old are you?

12 THE DEFENDANT: Fifty-six.

13 THE COURT: Are you a citizen of the United
14 States?

15 THE DEFENDANT: Yes.

16 THE COURT: What is the highest grade of school
17 or education that you have had?

18 THE DEFENDANT: College, four-year college.

19 THE COURT: Are you presently or have you
20 recently been under the care of a physician or a
21 psychologist?

22 THE DEFENDANT: No.

23 THE COURT: In the past 24 hours, have you
24 taken any narcotic drugs, medicine or pills or drunk any
25 alcoholic beverage?

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1 THE DEFENDANT: No.

2 THE COURT: Have you ever been hospitalized or
3 treated for narcotics addiction?

4 THE DEFENDANT: No.

5 THE COURT: Is your mind clear?

6 THE DEFENDANT: Yes.

7 THE COURT: And you understand what is going on
8 here?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay, turning to Mr. Leto, have you
11 discussed this matter with your client?

12 MR. LETO: Yes.

13 THE COURT: And do you believe he understands
14 the rights that he will be waiving by pleading guilty
15 today?

16 MR. LETO: Yes.

17 THE COURT: Do you believe he is capable of
18 understanding the nature of these proceedings?

19 MR. LETO: Yes.

20 THE COURT: And do you have any doubt about his
21 competency to plead at this time?

22 MR. LETO: No.

23 THE COURT: Turning back to Mr. Arnold. You
24 have a right to plead not guilty.

25 Do you understand that?

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1 THE DEFENDANT: Yes.

2 THE COURT: If you plead not guilty, under the
3 Constitution and laws of the United States, you are
4 entitled to a speedy and public trial by jury with the
5 assistance of counsel on the charge.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: At the trial, you would be presumed
9 to be innocent and the government would have to overcome
10 that presumption and prove you guilty by competent
11 evidence, and beyond a reasonable doubt and you would not
12 have to prove that you are innocent. And if the
13 government failed, the jury would have the duty to find
14 you not guilty.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: In the course of the trial, the
18 witnesses for the government would have to come to court
19 and testify in your presence. And your lawyer would have
20 the right to cross-examine the witnesses for the
21 government, to object to evidence offered by the
22 government and to offer evidence on your behalf.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: At the trial, while you would have

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1 the right to testify if you chose to do so, you would not
2 be required to testify. Under the Constitution of the
3 United States, you cannot be compelled to incriminate
4 yourself. If you decided not to testify, the Court would
5 instruct the jury that they could not hold that against
6 you.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: If you plead guilty and the
10 district court accepts the plea, you will be giving up
11 your constitutional right to a trial and the other rights
12 that I have discussed. There will be no further trial of
13 any kind and no right to appeal or collaterally attack at
14 any time the question whether you are guilty or not. A
15 judgment of guilty will be entered on the basis of your
16 guilty plea, which judgment can never be challenged.
17 However, you will have the right to appeal with respect
18 to your sentence.

19 Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: If you plead guilty, I am going to
22 ask you questions about what you did in order to satisfy
23 myself that you are indeed guilty of the charge to which
24 you seek to plead guilty. And you will have to answer
25 any questions and acknowledge your guilt. Thus, you will

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1 be giving up your right not to incriminate yourself.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Are you willing to give up your
5 right to a trial and the other rights I have discussed?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. Turning to the government, I
8 would like you to outline for me any agreement that you
9 have concerning the plea and the sentence here.

10 MR. REITER: Thank you, your Honor. Your
11 Honor, the government would move to seal the transcript
12 and docket in this case pending further motions.

13 THE COURT: Is that agreed upon?

14 MR. LETO: Yes.

15 THE COURT: Okay. Not a problem.

16 MR. REITER: Thank you, your Honor. The
17 government here has promised not to prosecute Mr. Andrews
18 (sic) for previously disclosed participation in criminal
19 activity involved deceptive mass mailings from October
20 21st, 2012 to October 21st 2017. There is no agreement,
21 however, made on sentencing.

22 THE COURT: No agreement as to sentencing?

23 MR. REITER: No.

24 THE COURT: What about as to a 5k letter?

25 MR. REITER: Your Honor, we haven't discussed

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1 the specifics of that. Mr. Arnold is being asked to be a
2 continuing cooperator with regards to some ongoing
3 investigations.

4 MR. LETO: Well, that could be misleading to
5 Mr. Arnold. I know what Mr. Reiter is saying but I want
6 to make Mr. Arnold aware of what his -- he means by that.

7 THE COURT: Okay.

8 MR. LETO: There is an agreement by virtue of
9 the cooperation agreement that if Mr. Arnold, okay,
10 complies with the cooperation agreement with its
11 provisions, the government at the time of sentencing will
12 file a 5k letter with the district judge. It is
13 obviously -- it's the government's sole discretion, of
14 course they must act in good faith, whether to file the
15 letter but at this juncture, since Mr. Arnold's
16 cooperation is not complete, the government is not in a
17 position to say whether it will file such a letter.
18 They're just entering into a contract with Mr. Arnold
19 that if Mr. Arnold lives up to his end of the bargain and
20 complies with the agreement, the government will file
21 that letter at the time of sentencing.

22 THE COURT: Thank you for clarifying.

23 MR. REITER: Your Honor, the only thing I would
24 add to that is that the 5k letter will be contingent on
25 substantial assistance -- the 5k letter would be

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1 contingent on substantial assistance.

2 THE COURT: I think what Mr. Leto has done is
3 put on the record exactly what's in the cooperation
4 agreement. Am I right?

5 MR. LETO: Yes.

6 THE COURT: Okay.

7 MR. REITER: Thank you.

8 THE COURT: And in terms of appeal, there's no
9 waiver of an appeal, correct?

10 MR. REITER: There's no waiver of appeal, your
11 Honor.

12 THE COURT: Okay. All right. Sticking with
13 the government, the elements of the crime that the
14 defendant is pleading guilty to.

15 MR. REITER: Yes, your Honor. There's an
16 agreement to engage in fraudulent acts involving
17 astrology and sweepstake solicitations. That there was a
18 use of the mails for the purpose of executing the
19 fraudulent acts. That there was a conspiracy between the
20 defendant and other unnamed co-conspirators between, in
21 or about January of 2012 and September of 2016, that the
22 defendant joined the conspiracy agreement knowingly and
23 intentionally and as Mr. Leto helpfully put in the plea
24 form, that the parts of the conspiracy occurred in the
25 Eastern District of New York.

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1 THE COURT: Okay. Turning back to Mr. Arnold,
2 are you aware of the elements of the crime that you are
3 charged and to which you intend to plead guilty?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. And have you discussed with
6 your lawyer that charge?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand the charge?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you know the maximum term and
11 the fine that the Court can impose on the charge to which
12 you are pleading guilty?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. So the maximum possible
15 penalty to this crime is twenty years in jail and a fine
16 of \$250,000 or twice the gross loss or gross gain.

17 Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you also understand there's a
20 mandatory \$100 special assessment?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you also understand the Court
23 can order restitution?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you also realize that if jail

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1 time is imposed, there may be a period of up to three
2 years of supervised release?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. And that's not mandatory,
5 that's up to the district court in this case?

6 MR. LETO: Correct, your Honor.

7 THE COURT: Okay. Back to Mr. Arnold, have you
8 discussed the sentencing guidelines with your lawyer?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that those
11 guidelines are not mandatory but that in sentencing, the
12 Court is required to consider the applicable guideline
13 range, the statutory factors listed in 18 USC 3553(a),
14 the nature and circumstances of the offense and your
15 history and characteristics, including, if any, your
16 criminal history?

17 THE DEFENDANT: Yes.

18 THE COURT: I am going to read you what those
19 statutory factors are. The Court must impose a sentence
20 sufficient but not greater than necessary to reflect the
21 seriousness of the offense, to promote respect for the
22 law, to provide just punishment for the offense, to
23 afford deterrence as to other criminal conduct, to
24 protect the public from further crimes by you and to
25 provide you with needed educational or vocational

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1 training, medical care or other correctional treatment in
2 the most effective manner.

3 At the sentencing, the Court must also consider
4 your cooperation if the government submits a 5k1.1
5 letter.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Has your attorney explained these
9 factors to you?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you realize that if the sentence
12 is more severe than what you might expect, you will be
13 bound by your guilty plea and will not be permitted to
14 withdraw it?

15 THE DEFENDANT: Yes.

16 THE COURT: And again, there's no agreement as
17 to particular recommendations on sentencing here.

18 MR. LETO: Correct, your Honor.

19 THE COURT: Okay. Do you have any questions
20 that you would like to ask me about the charge, your
21 rights or anything else relating to this matter?

22 THE DEFENDANT: No.

23 THE COURT: Are you ready to plead?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay. Turning back to Mr. Leto, do

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1 you know of any reason why this defendant should not
2 plead guilty?

3 MR. LETO: No, your Honor.

4 THE COURT: Turning back to Mr. Arnold. Are
5 you satisfied with your legal representation up until
6 this point?

7 THE DEFENDANT: Yes.

8 THE COURT: And do you believe that your lawyer
9 done a good job for you?

10 THE DEFENDANT: Yes.

11 THE COURT: What is your plea, guilty or not
12 guilty?

13 THE DEFENDANT: Guilty.

14 THE COURT: Are you making this plea
15 voluntarily and of your own free will?

16 THE DEFENDANT: Yes.

17 THE COURT: Has anybody threatened you or
18 forced you to plead guilty?

19 THE DEFENDANT: No.

20 THE COURT: Other than the agreement with the
21 government, and that's the cooperation agreement we
22 talked about before, has anyone made any promises that
23 are causing you to plead guilty?

24 THE DEFENDANT: No.

25 THE COURT: Has anybody made you any promise to

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1 you as to what your sentence will be?

2 THE DEFENDANT: No.

3 THE COURT: All right. So now what I want you
4 to do is to describe in your own words what you did in
5 connection with the acts charged and that is one count in
6 the information that you're pleading guilty to, and
7 that's conspiracy to commit mail fraud.

8 MR. LETO: Your Honor, if I may just have a
9 moment to explain.

10 THE COURT: Sure.

11 MR. LETO: Because this is a cooperation
12 agreement, Mr. Arnold and Mr. Reiter and I discussed this
13 at length. We thought it best to write out, go over it
14 with Mr. Arnold this morning and if it's all right with
15 your Honor, Mr. Arnold will read from this, obviously
16 subject to any questions he may have. And if that's okay
17 with the Court, may he also remain seated because he is
18 somewhat nervous.

19 THE COURT: That's absolutely fine. You can
20 read from it. Let me just before you do so, what your
21 lawyer said, I am sure these are your words and you've
22 discussed it and I'm perfectly comfortable with you
23 sitting and reading. That's fine.

24 MR. LETO: All right.

25 THE COURT: You can go ahead. Take your time.

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1 THE DEFENDANT: Okay. In 2012, I became one of
2 four equity partners in RM --

3 THE COURT: When I said take your time, I meant
4 it. Speak slowly.

5 THE DEFENDANT: All right. Okay. I'll start
6 again.

7 THE COURT: Okay.

8 THE DEFENDANT: In 2012, I became one of four
9 equity partners in RMI Direct Marketing, a direct mail
10 list brokerage company in Connecticut. At RMI, I led the
11 list brokerage practice that focused on astrology and
12 sweepstakes, mailings and lists.

13 RMI's primary function in connection with
14 mailing campaigns was to provide lists of addresses and
15 names for mailers in the United States and Canada. When
16 I acted as a list broker, our clients were mailers who
17 created content and used RMI to obtain lists of customers
18 to whom to send the mailings.

19 When RMI served as a list manager, as opposed
20 to a list broker, we helped list owners rent their lists
21 to other mailers. We also found other brokers
22 representing other mailers who rented our client's lists.

23 I was aware that in connection with
24 transactions that I facilitated, some of the content in
25 some of the mailings was deceptive. Although I did not

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1 see content in every transaction because some
2 transactions were handled by employees, I knew that my --
3 that the content in many mailings including those that
4 were addressed on Long Island were deceptive.

5 The sweepstakes mailings were deceptive because
6 they made the customer believe that if he or she mailed
7 a processing fee, the customers was guaranteed to win a
8 sum of money or some other valuable price which was not
9 the case.

10 The astrology mailings were deceptive because
11 for a processing fee, they claimed to give the recipient
12 a personalized astrology reading which I knew to be
13 untrue. The astrology mailings also often misleadingly
14 promised large sums of money and prizes.

15 For a portion of my career at RMI, my larger
16 client was a mailer and list owner known as the Destiny
17 Research Center. I acted as its list broker, renting
18 lists for its astrology mailings. I also served as its
19 list manager, renting Destiny's list to other mailers
20 with similar solicitations. I knew that many of
21 Destiny's mailings claimed content claiming to be from
22 world-renowned psychics and that the content falsely
23 stated that the consumer was being contacted because he
24 or she had been the subject of visions of the psychics in
25 which the consumer would receive large sums of money in

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1 lotteries or by other means.

2 THE COURT: Thank you. Let me ask the
3 government if you could outline the proof that you would
4 have put forward at trial.

5 MR. REITER: Thank you, your Honor. Were the
6 government to go to trial, the government would prove
7 beyond a reasonable doubt that the defendant, Mr. Arnold,
8 acted for years as the direct agent and middle man for
9 mailing campaigns with tens of millions of deceptive
10 mailings sent to consumers throughout the United States
11 and overseas.

12 Defendant worked directly with these co-
13 conspirators who created fraudulent mailings and sent
14 them using lists of names that were procured and
15 recommended by the defendant. The defendant knowingly
16 facilitated the mailing of millions of solicitations
17 which were intended to fraudulently induce victims to
18 send money to the unnamed co-conspirators. These
19 solicitations were often either an astrological-based
20 scams or a fraudulent sweepstakes.

21 These astrological scams involved solicitations
22 supposedly from world-renowned psychics that falsely
23 claimed the victims were being contacted because they had
24 been the subject of a personalized specific vision by the
25 psychic, that the victim was due to receive large sums of

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1 money and lotteries or other means.

2 Those solicitations particularly appeared
3 personalized, referring to victims by their first names
4 and portions that falsely appeared to be handwritten to
5 give the appearance of an individualized letter.

6 The government would prove that the defendant
7 knew that these mass mailings, for which he identified
8 thousands of names at a time, were in fact fraudulent.

9 The sweepstakes scam that the defendant
10 facilitated by either renting names or finding names to
11 mail were deceptive because they intentionally mislead
12 recipients into believing they had also received a large
13 cash lottery or sweepstakes prize, when in fact it was a
14 mass mailing intended to solicit processing fees under
15 false pretenses.

16 The government would prove beyond a reasonable
17 doubt at trial that the defendant had knowledge that the
18 schemes in question were deceptive and materially
19 misleading to consumers and that he knew that many
20 thousands of consumers were sending money to co-
21 conspirators based on the false representations in these
22 mailings.

23 THE COURT: And how would you prove the
24 defendant's involvement in all this?

25 MR. REITER: Your Honor, the government's proof

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1 would include copies of sample deceptive solicitations
2 that were both emailed by and received by the defendant,
3 as well as examples of the defendant approving the rental
4 of names for deceptive solicitations after receiving a
5 copy of the deceptive solicitation. The solicitations
6 are often fraudulent on their very face where they state
7 that they're individualized, personalized letter but the
8 defendant would know that it was, in fact, sent to 5,000,
9 10,000 or a larger number of victims.

10 THE COURT: And this would be the defendant's
11 email?

12 MR. REITER: Yes, your Honor. And the
13 defendant also at times received solicitations after they
14 were mailed, as he inserted a decoy address into the
15 lists of names that were being mailed, so that he could
16 receive a copy of the solicitation after it was sent out.
17 So the defendant would have received an actual copy of it
18 and we have copies of those, as well. That would be
19 among other proof, your Honor, put forward by the
20 government.

21 The defendant's largest client for years was a
22 scheme named the Destiny Research Center which is a
23 corporation incorporated in Hong Kong which sent millions
24 of fraudulent solicitations in the United States and
25 elsewhere. The defendant as a list broker for the

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1 Destiny Research scheme, recommending and identifying
2 millions of names for the fraudulent mailing schemes and
3 he did this by soliciting lists of names from other
4 clients who would engage in fraud, and from other list
5 owners that he knew had lists likely to be good sources
6 of recipients or victims for the Destiny Research scheme.

7 He also acted as a list manager, meaning that
8 he managed lists for clients including the Destiny
9 Research Center. As a list manager, he kept tabs on how
10 many consumers have paid into an individual scheme, such
11 as Destiny Research and then rented these names to other
12 fraudsters on behalf of his client, such as a Destiny
13 Research scheme and Mr. -- defendant's company received
14 commissions based on the number of names that he brokered
15 or managed for his clients.

16 THE COURT: And defendant's position in that
17 company was what?

18 MR. REITER: He was an equity partner, your
19 Honor, one of four equity partners.

20 THE COURT: Okay. Mr. Leto?

21 MR. LETO: Yes. Just even for Mr. Arnold's
22 benefit because that was a lot to swallow just to maybe
23 put it in some simpler terms to what really happened here
24 is that fraudulent mailings were sent by companies that
25 just defrauded people but these companies needed names of

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1 people who would fall for the scam.

2 Mr. Arnold did not make any mailings. That was
3 not his role. However, in the business out there, people
4 actually make money renting the lists, just like for
5 instance, Lands End has a list of name. LL Bean might
6 want that list because they're similar customers.

7 So what Mr. Arnold did was he facilitated these
8 mailings and therefore entered the conspiracy because
9 these fraudulent mailings were going out. Mr. Arnold
10 knew that a lot of these mailings were going to, for want
11 of a better term, deceive people and take their money --

12 THE COURT: Right.

13 MR. LETO: -- rip them off. And despite
14 knowing that, he supplied the names and then, in fact,
15 these companies ripped them out. So he didn't directly
16 rip them off but what he did was he facilitated it. He
17 gave these companies the means to do what they did and
18 that makes him guilty --

19 THE COURT: Right, which is sufficient to make
20 him guilty of conspiracy.

21 MR. LETO: Yes, and the government has the
22 proof, as Mr. Reiter points out, with the emails and the
23 decoys and so forth, that Mr. Arnold knew that this, in
24 fact, was happening.

25 THE COURT: Right. And the government, when I

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1 asked to outline your proof, I didn't mean, you know,
2 what the final -- what everything would show. The
3 question was how would you show, what sort of proof would
4 you offer to show that this defendant was guilty of the
5 conspiracy to commit mail fraud and I think you've done
6 that through the emails, is that right?

7 MR. REITER: Yes, your Honor.

8 THE COURT: And his position with the company,
9 is that right?

10 MR. REITER: Yes, your Honor. There are a
11 number of emails from Mr. Arnold where he forwards on
12 deceptive solicitations.

13 THE COURT: So just so we're all clear, you
14 know, Mr. Arnold, you've heard what your lawyer says
15 about your involvement. You've also discussed with me
16 your involvement and indeed, your knowledge that these
17 lists were used for emails that were deceptive, not all
18 of them but some of them, understood?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. And Mr. Leto, having heard
21 what the government said it would outline as its proof at
22 trial, you're still comfortable with your client pleading
23 guilty to conspiracy to commit mail fraud?

24 MR. LETO: I am, your Honor. And just the term
25 that Mr. Reiter used, a decoy, I just want to elaborate

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1 on that because when I entered this case, I had never
2 heard what that meant and I asked Mr. Reiter and his
3 partner in the case, Erin Reynolds (ph.) to tell me what
4 it meant.

5 A decoy is that the company to whom say you're
6 renting a list, you want to make sure that they are, in
7 fact, sending out these promotions. so what you do is
8 you provide a fake name but it comes back to your
9 personal residence. So you can then find out whether, in
10 fact, the company is doing what it says and sure enough,
11 decoys Mr. Arnold sent out, he was getting at least some
12 of the solicitations sent to his house. Obviously, he
13 didn't send in any money. But it was his way of
14 confirming that this had happened in some cases and the
15 government has the proof to show the decoys, some of them
16 at least, of a deceptive nature, not all went to Mr.
17 Arnold's house. So that is what meant by a decoy.

18 THE COURT: Right. And that would connect him?

19 MR. LETO: Yes.

20 THE COURT: Understood. Anything else that
21 either the government or Mr. Leto that you want to add?

22 MR. LETO: Not with respect to the plea, your
23 Honor, but let me just check with Mr. Arnold.

24 THE COURT: Okay.

25 MR. LETO: Is there anything else that you want

Proceedings

1 me to add?

2 (Counsel and client confer)

3 MR. LETO: May I just have a moment with Mr.
4 Reiter?

5 THE COURT: Absolutely.

6 (Counsel confer)

7 MR. LETO: Nothing further, your Honor, with
8 respect to the plea.

9 THE COURT: Okay, thank you.

10 MR. REITER: Nothing further, your Honor.

11 THE COURT: All right. Any other questions,
12 any questions from you, Mr. Arnold?

13 THE DEFENDANT: No, I am good.

14 THE COURT: Okay. All right. So based upon
15 what I have heard today, the information given to me, I
16 find, Mr. Arnold, that you're acting voluntarily, that
17 you fully understand your rights and consequences of your
18 plea. I also find there is a factual basis for that
19 plea.

20 I will therefore recommend that the district
21 judge accept the plea of guilty in this case.

22 Next, the question of bail.

23 MR. LETO: Yes, your Honor. We have an
24 agreement with all matters except one.

25 THE COURT: Okay.

Proceedings

1 MR. LETO: All right. Do you want me to --

2 THE COURT: Do you want to say what -- let's
3 say what the agreement is.

4 MR. LETO: Okay.

5 THE COURT: Okay.

6 MR. LETO: The agreement is that Mr. Arnold,
7 subject to the Court's approval, of course, would be
8 released on a \$100,000 unsecured bond, that his travel
9 would be restricted to New York State, Connecticut, New
10 Jersey and Pennsylvania and that he must surrender his
11 passport by February 16th.

12 It was my mistake, I told Mr. Reiter that I
13 should have told Mr. Arnold to bring his passport today,
14 but he will overnight it to me or if the Court prefers,
15 he can email it directly to pretrial either here or in
16 Connecticut, which will be the subject of the dispute but
17 other than that, I think we're in agreement. So there's
18 just one thing left to go over.

19 THE COURT: So what are we not in agreement of,
20 the surrender of his passport?

21 MR. LETO: Pretrial services -- no, pretrial
22 services reporting is the only point of contention.

23 THE COURT: Okay. So what's the problem?

24 MR. LETO: All right. I'm all right with Mr.
25 Arnold reporting to pretrial services but in the

Proceedings

1 following manner. I don't think there's any reason for
2 him to actually physically to have to go there and here's
3 why. Most people don't bother to read 18 USC 3142. If
4 they did, they would see that under 3142(b), the Court
5 shall release the defendant on personal recognizance or
6 an unsecured bond.

7 The only time a Court may impose conditions in
8 addition to that is if the Court feels that the release I
9 just mentioned will not reasonably assure the defendant's
10 return to court or the safety of the community. I don't
11 think there's any basis here to think he will not come
12 back to court.

13 Now with respect to his international travel,
14 although it's not mentioned in the pretrial services
15 report, with the exception of Canada, Mr. Arnold has not
16 traveled in the last 20 years. These were all vacations.
17 So the older ones are irrelevant. He went a couple of
18 times.

19 Canada, he went to because it was part of his
20 job when he worked at the company, RMI. He no longer
21 works there, so he has no reason to travel to Canada.
22 And even if he did, reporting to pretrial is not going to
23 have any effect on traveling.

24 So what is the reason for him to report to
25 pretrial? There is none. None.

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1 THE COURT: Well, let me just stop for a
2 second. You've agreed that he's going to be restricted
3 to New York, New Jersey, Connecticut and Pennsylvania.

4 MR. LETO: Yes.

5 THE COURT: Okay.

6 MR. LETO: Because he has no reason to go
7 elsewhere and if he wants to take a vacation, I will
8 notify the government, pretrial and make an application
9 to the Court.

10 THE COURT: Right, right, okay.

11 MR. LETO: Now --

12 THE COURT: So in terms of reporting to
13 pretrial, is it because he has to report here?

14 MR. LETO: He does not.

15 THE COURT: In this district or what?

16 MR. LETO: The nearest -- Ms. Mackey was kind
17 enough to say that Mr. Arnold could report in Connecticut
18 but the closest office is about a 40-minute drive.

19 THE COURT: In Connecticut?

20 MR. LETO: Yes. I think it's best if he
21 reports by phone and this is an old form that you have in
22 front of you. It doesn't contain email but he can report
23 by email, by telephone and if there should come a time
24 that he needs to report in person, for instance, we're
25 fine with home visits. We crossed out employment visits

Proceedings

1 and Mr. Reiter was okay with that because I don't want
2 somebody showing up at his job and finding out why is
3 somebody from the federal government here checking up on
4 you.

5 THE COURT: Right, but they come to his house
6 unannounced.

7 MR. LETO: Yes, that's fine.

8 THE COURT: How often does he have to appear
9 before pretrial?

10 MR. LETO: Well, that's my point. I don't
11 think he should have to appear at all but it's up to the
12 individual office --

13 THE COURT: No, I mean even by phone or email
14 or whatever. Like maybe we'll get Ms. Mackey up here to
15 weigh in.

16 MR. LETO: If the Court does by phone or email,
17 as often as the Court and pretrial wants because it's
18 only a minor inconvenience. He can send an email, make a
19 phone call, as often the Court and pretrial want.

20 THE COURT: So he is still going to work every
21 day.

22 MR. LETO: Yes.

23 THE COURT: Okay. Let me ask Ms. Mackey, how
24 often in a case like this would you ask for a defendant
25 to report?

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1 PRETRIAL SERVICES OFFICER: Well, if a
2 defendant was reporting to me for the first six months,
3 they report in person at least one time per month. After
4 that, we can reduce it depending if the defendant has
5 been compliant to quarterly reporting.

6 THE COURT: So when you say in person, how
7 often in person?

8 PRETRIAL SERVICES OFFICER: Every three months
9 after the first six months.

10 THE COURT: So he would only have to come twice
11 to here or to Connecticut?

12 PRETRIAL SERVICES OFFICER: Four times a year.

13 THE COURT: Or even twice and if in the first
14 six months you think well, it's fine you don't have to
15 come in anymore --

16 PRETRIAL SERVICES OFFICER: Well, we -- if
17 we're --

18 THE COURT: It's up to you really.

19 PRETRIAL SERVICES OFFICER: Well, we like to,
20 for other districts, to put in as directed and have them
21 determine how often the defendant should report but if
22 your Honor wants him to report specifically, either by
23 telephone, in person, that's up to you.

24 MR. REITER: Your Honor, the government's
25 recommendation is that Mr. Arnold be required to report

Proceedings

1 in person to pretrial services in Connecticut in his home
2 state. We'd be fine with obviously whatever pretrial
3 services in Connecticut recommends and if I understood,
4 Ms. Mackey would be -- once a month for six months and
5 then after that on a quarterly basis.

6 PRETRIAL SERVICES OFFICER: Correct.

7 THE COURT: So he would only have to make one
8 trip in a six month period?

9 PRETRIAL SERVICES OFFICER: No, the first six
10 months he would be reporting once a month in person.

11 THE COURT: Okay. So that's every month he has
12 to show up at the Connecticut office.

13 PRETRIAL SERVICES OFFICER: Correct.

14 THE COURT: Which is how far from his house?

15 PRETRIAL SERVICES OFFICER: I am not a hundred
16 percent sure how far it is. I think the closest office
17 is in Bridgeport, Connecticut from where he is.

18 MR. LETO: I agree with that and it is
19 Bridgeport and according to Mr. Arnold, it's about a 40-
20 minute drive.

21 MR. REITER: Your Honor, the government's
22 recommendation is based on that this report, at least in
23 the six months going forward would be helpful to ensure
24 that Mr. Arnold continues to abide by his cooperation
25 agreement.

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1 THE COURT: So as far as his cooperation
2 agreement goes, does he have to come and talk to you in
3 this office or somewhere else or what --

4 MR. REITER: The cooperation agreement would
5 require him to talk to the government wherever is
6 necessary. The government certainly -- able to come to
7 New York or Connecticut to meet with him or at times meet
8 over the phone, although the agreement does contemplate
9 that he might have to travel, as well.

10 THE COURT: Right. So to cooperate with the
11 cooperation agreement, he's got to meet with the United
12 States Attorney's Office and he's got to do that wherever
13 you say. This issue is whether or not he has to apply --
14 go to pretrial to make sure that he is doing whatever he
15 has to do. Right?

16 MR. LETO: Yes, and part of --

17 THE COURT: That's the difference.

18 MR. LETO: -- my argument is though is since
19 there is going to be some monitoring by the government by
20 virtue of the cooperation agreement, there isn't any
21 necessity to pretrial as well and because he is a
22 cooperator, I am always reluctant to have more people
23 than are necessary to know what it is he is up to. We're
24 going to be in a different pretrial services office.
25 That officer may decide you've got to come in once a

Proceedings

1 week.

2 But the point is this and I go back to 3142, if
3 you read the statute and abide by it, the only way this
4 Court can impose the conditions, if I object and I am, to
5 certain provisions is if you feel that without the
6 conditions it will not reasonably assure the safety of
7 the community and his return to court.

8 THE COURT: Right. So you're saying if we're
9 letting him out, there's no reason to believe he's not
10 going to also comply with whatever pretrial tells him to
11 do.

12 MR. LETO: I'm saying that under the statute --

13 THE COURT: Let's look at the bond. Let me see
14 exactly what the bond says that we're agreeing to. And
15 by the way, who is signing the bond? Is it just the --
16 it's unsecured, right?

17 MR. LETO: Yes. Originally we (indiscernible)
18 but the government and I saw how much Mr. Arnold's
19 (indiscernible) we thought it might look better for 100,
20 even though to a certain extent it's a meaningless number
21 since he is not putting up anything.

22 THE COURT: Right. Ad the government is
23 agreeing with that?

24 MR. REITER: The government would agree with
25 100,000 unsecured bond.

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1 THE COURT: An unsecured, so you're pretty
2 confident he is going to show up.

3 MR. REITER: Well, your Honor, I was under the
4 impression that the bond will be signed by Mr. Arnold's
5 wife, is that correct?

6 MR. LETO: I was not under that impression but
7 that's fine with us.

8 THE COURT: Is she here?

9 MR. LETO: Yes.

10 THE COURT: Okay.

11 MR. LETO: I kept her out because sometimes
12 it's not a good idea to have spouses in the courtroom
13 during an allocution.

14 THE COURT: Okay. All right. So let's go
15 through this in particular. So we have a bond. It's
16 \$100,000. You agree to that. He's remaining in -- his
17 travel is certainly restricted. He's going to work every
18 day; Connecticut, Pennsylvania, New York, New Jersey. He
19 has to surrender his passport and here's where we're
20 talking about.

21 MR. LETO: Yes.

22 THE COURT: He's under the supervision of
23 pretrial services, subject to special conditions on the
24 reverse.

25 MR. LETO: And I left that blank -- no, I left

Proceedings

1 blank what --

2 THE COURT: That's fine. Okay.

3 MR. LETO: I left blank the specifics with
4 respect to pretrial. In other words, I could object bu
5 if it's not going to inconvenience him, I am not going to
6 object to pretrial per say, just to employment visits,
7 and having him to show up in person.

8 THE COURT: You don't want an employment visit
9 though.

10 MR. LETO: No employment visits.

11 THE COURT: No employment visits.

12 MR. LETO: Correct.

13 THE COURT: And that's fine. I agree with that
14 because that could certainly -- he's a cooperator. You
15 don't want people showing up at his place of business
16 where he is working.

17 MR. LETO: And so does the government, the
18 government also agrees to that.

19 THE COURT: Everyone agrees to that. And he's
20 got random visits at his home.

21 MR. LETO: Okay with that.

22 THE COURT: Okay with that. And here's where
23 the part -- (b) says must report either as directed as
24 pretrial or in person certain times or by telephone.

25 MR. LETO: And we can throw in email because

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1 it's an old form, they don't have email on there.

2 Obviously the form is very old.

3 THE COURT: Right. So I mean the fact that
4 it's even in the form, it's interesting you bring it up
5 because it's always been in person, so -- but the form
6 certainly contemplates it could be done by telephone,
7 right?

8 MR. LETO: Yes.

9 THE COURT: Okay. I want to be clear on where
10 he calls in and when he calls in and that would be
11 calling into -- Ms. Mackey to your office?

12 MR. LETO: Whatever the government, the Court
13 and pretrial wants, he will do with respect to phone
14 calls and emails.

15 PRETRIAL SERVICES OFFICER: He probably will
16 report to the Connecticut office by telephone then.

17 THE COURT: Okay. By telephone.

18 PRETRIAL SERVICES OFFICER: Yes.

19 THE COURT: Okay.

20 PRETRIAL SERVICES OFFICER: Since they'll be
21 doing the home visits.

22 THE COURT: And they'll be doing home visits.

23 PRETRIAL SERVICES OFFICER: Correct.

24 THE COURT: Okay. Which is certainly something
25 that is more intrusive and Mr. Arnold, you have to

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1 understand that they can show up at your door, any time,
2 unannounced and I don't know who else is living at your
3 house. Your wife is there, she'll know. Do you have
4 children there? Do you have any other family members
5 there?

6 THE DEFENDANT: Just two children.

7 THE COURT: Just two children. It's a single-
8 family home. There's no other people living there.
9 Okay. So you understand that and I am going to allow you
10 to appear by phone or email.

11 THE DEFENDANT: Okay.

12 THE COURT: You're going to have to set that up
13 with Ms. Mackey who will coordinate whatsoever she needs
14 to coordinate with the Connecticut office and they'll
15 tell you how to appear, okay?

16 THE DEFENDANT: Okay.

17 THE COURT: Now you have to understand the
18 conditions of this bond, when you sign it, you have to
19 comply by every one of these conditions, meticulously,
20 okay? So if somebody tells you to call and email and you
21 don't do that, or if someone -- any of this, if you
22 travel to a different state that's not here or
23 internationally, or if you do anything that's not allowed
24 by here, that will subject you to be prosecuted for a
25 completely separate crime of bail jumping. That is

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1 separate, okay?

2 THE DEFENDANT: Uh-hum.

3 THE COURT: Now if you have any question at all
4 as to whether or not you can do something, supposing you
5 have a family reunion in Florida or something and you
6 think well, that's okay, it's in the United States, I
7 don't need a passport. No, that's not on this piece of
8 paper. So that means that you cannot do that without
9 permission.

10 So if you have any question at all as to
11 whether or not you can do something, you must consult
12 pretrial, right? And if you have a request that you need
13 to do, maybe someone in your family is sick, who knows
14 what? If you have a request to travel or anything like
15 that, you have to ask pretrial. You have to give them
16 enough time to consider, if possible and then it has to
17 come a judge, either me or Judge Spatt, to say yes, you
18 can do it or no you can't or pretrial in many cases has
19 discretion to say yes, it's fine with us, just check in.
20 Okay?

21 THE DEFENDANT: Okay.

22 THE COURT: So it's important that you
23 understand that I am going to allow you to check in with
24 pretrial however many times they think, either by phone
25 or email, and if anything changes, pretrial can then come

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1 and say do you know what? This isn't working out, Judge.
2 I want to change this. And if they come back to me or to
3 Judge Spatt or any other judge that's on duty and they
4 say this is not working out, we can't trust this person,
5 he hasn't called in, we need to change his conditions,
6 then we'll change them.

7 MR. LETO: Your Honor, may I just have a moment
8 to say something?

9 (Counsel and client confer)

10 MR. LETO: Thank you, your Honor. I just
11 wanted to tell him something privately.

12 THE COURT: Okay. So let me ask Mr. Arnold, do
13 you have questions for me about the conditions of your
14 bond, the conditions of your release?

15 THE DEFENDANT: No, I understand.

16 THE COURT: You understand. And you understand
17 the importance of complying with this?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. So I am looking at the form
20 now and when I am in (b) and I am checking must report,
21 we will just say as directed by pretrial by telephone,
22 right? Now, pretrial, do you want me to put in any
23 particular times or it's just going to say as directed by
24 telephone or by email? We'll do it that way?

25 PRETRIAL SERVICES OFFICER: As directed by

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1 telephone would be great, Judge.

2 THE COURT: Okay. So I am checking as directed
3 and I am going to give this back to you to look at before
4 I sign it again.

5 MR. LETO: If your Honor wants Ms. Arnold to
6 sign the bond, I will get her.

7 THE COURT: You know what? Maybe -- I think
8 it's important that she understands, if she is living in
9 the same house. She -- it's important that she knows
10 what's going on here, too.

11 MR. LETO: Thank you, your Honor. The postal
12 inspector is asking her to come in.

13 THE COURT: I'm doing and/or via email because
14 that will be up to pretrial to decide how they want to do
15 it. All right? Because I don't know what their systems
16 are.

17 MR. LETO: Yes, your Honor, that's fine with
18 us.

19 THE COURT: I will give you back the bond. Why
20 don't you come on up?

21 MR. LETO: Come up to the right.

22 THE COURT: That's fine. Mrs. Arnold, is that
23 your last name, too?

24 MS. ARNOLD: That's my last name.

25 THE COURT: Okay. And you're Mr. Arnold's

Proceedings

1 wife, is that right?

2 MS. ARNOLD: I am.

3 THE COURT: Okay. So the reason I asked you to
4 come in is because the government is asking that you co-
5 sign the bond that your husband is signing and I want to
6 explain to you the conditions of that, just so you know
7 what's going on here, okay?

8 MS. ARNOLD: Yes.

9 THE COURT: So your husband is being let out on
10 bond. Now that bond is unsecured but it is an unsecured
11 bond in the amount of \$100,000. If your husband doesn't
12 comply with all of the conditions of the bond, he's not
13 only going to be subject of the \$100,000 but also he will
14 be charged with a separate crime of bail jumping. And
15 I've explained all of that to him.

16 Now the part I want to also make clear to you
17 is that as part of the bond, pretrial services can visit
18 your home without notice. I want you to know that
19 because it's your home, too and you'll be there and there
20 could be pretrial knocking on your door just to check on
21 your husband. So I want you to know that that could
22 happen and not to be alarmed if that happens.

23 MS. ARNOLD: Okay. Can I ask a question?

24 THE COURT: Absolutely.

25 MS. ARNOLD: What would they perhaps say? I

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1 have a daughter with anxiety who is in therapy, so I
2 would like to prepare her.

3 THE COURT: Fair enough bringing that up and
4 what I would ask you to do and I am glad you walked in
5 for that reason, before everybody leaves today, you're
6 going to talk to pretrial services and maybe you can put
7 that in the file. Ms. Mackey, would that be appropriate?

8 PRETRIAL SERVICES OFFICER: That's fine, Judge.

9 THE COURT: Okay. How old are your children?

10 MS. ARNOLD: Eleven -- she'll be twelve in
11 April and my son will be ten in two weeks, almost.

12 THE COURT: Okay. And I mean it's unlikely
13 that they're going to be home alone or answering the door
14 by themselves, right?

15 MS. ARNOLD: My daughter has only stayed home
16 for like ten minutes at a time during the day.

17 THE COURT: Okay.

18 MS. ARNOLD: That's it.

19 THE COURT: All right. Well, that's precisely
20 the kind of thing you should talk to pretrial about, just
21 so that they're sensitive to that. Okay?

22 MS. ARNOLD: All right.

23 THE COURT: But I do want you to know that
24 you're going to take a look at the bond. Mr. Leto will
25 go over it with you. You'll sign it. Just high points

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1 of that is, as I said, pretrial can visit your house.
2 Travel is restricted for your husband; New York, New
3 Jersey, Connecticut and Pennsylvania. He's giving up his
4 passport, so he can't travel outside of the country.

5 And also, if there's some family event or
6 something he wants to travel, that involves travel
7 outside of those places, he cannot do any of that without
8 permission. Okay?

9 MS. ARNOLD: Right.

10 THE COURT: So just so you know, if you're
11 making any plans, that if your husband wants to go
12 anywhere outside of those places, then he needs to have
13 special permission.

14 MS. ARNOLD: So if he happened to get a job
15 interview somewhere else, he just needs to get permission
16 but he would be allowed to go.

17 THE COURT: That's exactly the type of thing,
18 we would ask for permission for. You could contact
19 pretrial.

20 MS. ARNOLD: Okay.

21 THE COURT: Sometimes they can grant it
22 themselves. Sometimes they'll have to go to a judge and
23 say can this be granted.

24 MS. ARNOLD: Okay.

25 THE COURT: But, yeah, that's the kind of thing

Proceedings

1 you need to be aware of.

2 MR. LETO: And, your Honor, just to assure Ms.
3 Arnold because she is quite nervous, these applications
4 are liberally granted by judges, provide the judges get
5 advance notice --

6 THE COURT: Absolutely.

7 MR. LETO: -- as opposed to after the fact,
8 trying to explain why the person went.

9 THE COURT: After the fact explaining is never
10 a good idea --

11 MS. ARNOLD: Okay.

12 THE COURT: -- because then you've already --
13 not you --

14 MS. ARNOLD: Right, right, right.

15 THE COURT: -- then your husband will have
16 already committed a crime.

17 MS. ARNOLD: Yes.

18 THE COURT: All right. But, yes, Mr. Leto is
19 right, I mean there could be a sick relative. There
20 could be a graduation.

21 MS. ARNOLD: Right.

22 THE COURT: Things happen.

23 MS. ARNOLD: Okay.

24 THE COURT: Always ask.

25 MS. ARNOLD: Okay.

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1 THE COURT: Even if it's vague and you're not
2 sure if it's something that's okay, it doesn't cost
3 anything to ask; always ask.

4 MS. ARNOLD: Okay. Thank you.

5 THE COURT: Do you have any questions for me?

6 MS. ARNOLD: Not that I can think of right now.

7 THE COURT: Okay.

8 MS. ARNOLD: Of course, is there a number you
9 can give me for when we leave?

10 THE COURT: You'll have pretrial and the
11 lawyer, as well. Mr. Leto is going to go over that with
12 you, as well.

13 (Pause)

14 THE COURT: All right. So we've gone over the
15 terms. I am going to sign the bond.

16 Mr. Arnold, do you have any questions at all
17 bout the bond or you're good on it?

18 THE DEFENDANT: I'm good, your Honor.

19 THE COURT: Okay. Again, call your lawyer.
20 You call pretrial if you have any questions at all. Ms.
21 Mackey, anything else?

22 PRETRIAL SERVICES OFFICER: I just want to put
23 on the record, your Honor, that Mr. Arnold would have to
24 go at least one time to the Connecticut pretrial office,
25 just to go over his reporting conditions --

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1 THE COURT: Just to establish it --

2 PRETRIAL SERVICES OFFICER: Exactly.

3 THE COURT: -- baseline.

4 (Counsel and client confer)

5 THE COURT: Okay. Mr. Arnold, that seems
6 appropriate.

7 MR. LETO: One moment please, your Honor.

8 THE COURT: Yes.

9 (Counsel and client confer)

10 MR. LETO: Your Honor, we agree obviously that
11 that has to be done. The only thing we're working on
12 because of his schedule, if pretrial in Connecticut
13 closes at 5, we're going to have to try to work something
14 out, say within the next week.

15 THE COURT: Well work it out.

16 MR. LETO: Because he is going to have --

17 THE COURT: Just tell them you have to leave
18 work early or go into work late one day. Just do it.
19 Make it happen. People do things like that all the time.

20 MR. LETO: Ms. Mackey is unsure what time
21 pretrial opens. Maybe somebody is there at 8, and he can
22 do it before 8. We're going to have to do it.

23 THE COURT: Listen, everybody has to take off
24 work for one reason or another. So just tell them --
25 make some excuse and make sure that you can get there

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1 before pretrial closes. People leave early all the time
2 from work. You can do that. Okay?

3 MR. LETO: Yes, thank you, your Honor.

4 THE COURT: You'll make it happen.

5 Anything else?

6 MR. REITER: Yes, your Honor. The government
7 would request a calendar control date for the fall for
8 this mater --

9 THE COURT: Okay.

10 MR. REITER: -- as opposed to a sentencing
11 date.

12 THE COURT: So is that a date before Judge
13 Spatt?

14 MR. LETO: Yes.

15 THE COURT: June 1st? Oh, he gave us that.
16 Okay. Judge Spatt gave a date of June 1st at 9:30 before
17 Judge Spatt.

18 MR. LETO: I'm sorry, what time your Honor?

19 THE COURT: 9:30 before Judge Spatt. Okay?

20 MR. LETO: Thank you, your Honor.

21 THE COURT: Thanks. Oh, wait. Mrs. Arnold,
22 are you okay?

23 MR. LETO: One moment, please, your Honor.

24 THE COURT: Why don't you ask Mr. Leto.

25 (Counsel and co-signer confer)

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1 MR. LETO: I was just assuring Ms. Arnold that
2 there's really no chance that anything is going to happen
3 on that day, even if Judge Spatt wanted to sentence Mr.
4 Arnold, probation wouldn't be ready. This is a
5 cooperation agreement. We'll be lucky if there's a
6 sentence -- I shouldn't say lucky, I would estimate it's
7 unlikely there would be a sentencing this year but we
8 will inform Judge Spatt well before June 1st what our
9 plans are.

10 THE COURT: Right. And so will the government.
11 We just have to set dates just to keep track of things
12 and sometimes it gets put off, you know, especially in
13 terms of cooperation. It could take time, you know, for
14 the government to develop a case but we just have to put
15 that date. So don't worry about it. You'll know it way
16 in advance if it's going to happen and what's going to
17 happen, I am sure. Okay?

18 Anything else from anybody?

19 MR. REITER: No, your Honor, thank you.

20 THE COURT: Okay.

21 MR. LETO: Nothing else. Thank you, your
22 Honor.

23 THE COURT: Very good. Thanks, very much.

24 (Matter concluded)

25 -o0o-

C E R T I F I C A T E

I, LINDA FERRARA, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 1st day of March, 2018.


Linda Ferrara

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